



06 / 16 - 03

MAIL STOP PETITION

DAC
#4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steve J. Brown

Attorney Docket No. HERO-1-1097

Serial No.: 09/625,080

Group Art Unit: 2761

Filing Date: July 25, 2000

Examiner: G. Morgan (in parent application)

Title: AGGREGATING AND POOLING INFORMATION IN A COMMUNICATION SYSTEM WITH FEEDBACK

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

TO THE COMMISSIONER OF PATENTS:

The above-identified application received a Notice of Abandonment for an alleged failure to file missing parts. Because the Missing Parts were in fact timely filed,

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

1. Petition Fee

The other than small entity-Petition fee of \$110 required by 37 CFR 1.17 (l), is enclosed.

2. Reply

The reply to the Notice to File Missing Parts

a) Was in fact filed on November 3, 2000.

b) Copies and proof are enclosed herewith.

3. Terminal disclaimer is not required. Application was filed after June 8, 1995.

4. An adequate showing of the cause of unavoidable delay is set forth below.

06/17/2003 AYONDAF1 00000111 09625080

01 FC:1452

110.00 OP

RECEIVED

JUN 17 2003

OFFICE OF PETITIONS



25315

PATENT TRADEMARK OFFICE

-1-

HERO-1-1097Petition.doc

BLACK LOWE & GRAHAM^{PLLC}

816 Second Avenue
Seattle, Washington 98104
206.381.3300 • F: 206.381.3301

REMARKS

A Notice of Abandonment under 37 C.F.R. §1.53 was mailed on May 9, 2002 (see Exhibit A). The Notice of Abandonment indicated that the application was abandoned for failure to reply to the Notice to File Missing Parts mailed on September 13, 2000.

In fact, however, applicant did file a response to Notice to File Missing Parts on November 3, 2000 (see Exhibit B). The response to the Notice to File Missing Parts includes a postcard that was stamped with a November 7, 2000 date by the Patent Office, a transmittal letter, a copy of the Notice to File Missing Parts, the required Declaration, and a check in the amount of \$65.00.

Applicant submits that there might have been some confusion at the Patent Office as to how to process the response to the Notice to File Missing Parts because on the postcard and the transmittal letter the serial number for the parent application (09/160,970) was used instead of the serial number for the application as identified in the Notice to File Missing Parts (09/625,080). However, please note that the attorney docket number (HERO-1-1097) on the postcard, transmittal letter, and check do match the attorney docket number on the Notice to File Missing Parts and on the postcard filed with the application (see Exhibit C).

Ms. Michelle Funston at Black Lowe & Graham had a telephone communication and sent a subsequent facsimile in order to resolve the fact that the postcard and transmittal letter that went with the response to Notice to File Missing Parts included the wrong serial number (see Exhibit D). As you can see, the facsimile included a letter from Ms. Michelle Funston to the US Patent and Trademark employee Ms. Janice Burse, apparently now retired, from the Customer Service Center. The facsimile included a copy of the cover letter with the correction made to the serial number as shown in Exhibit A. The letter further requested for Ms. Burse to advise if any further documentation was required to correct the error, and no further documentation was requested.



25315

PATENT TRADEMARK OFFICE

Therefore, Applicant submits that within two months from the Notice to File Missing Parts a proper Declaration was filed along with the \$65.00 surcharge. Therefore, Applicant submits that because the Applicant replied to the Notice to File Missing Parts, the application was not in fact abandoned. Because it was not abandoned, Applicant submits that this case should be revived.

If the Patent Office believes that the error was not entirely on the part of Applicant, then the Applicants further request that a refund of the petition fee be refunded into our deposit account, 501050.

Respectfully submitted,

BLACK LOWE & GRAHAM^{PLLC}

Richard T. Black

Richard T. Black
Registration No. 40,514
Direct Dial: 206.381.3302

MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: **MAIL STOP PETITION**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

6/13/03

Date of Deposit

C. Mendoza
Claudia Mendoza




25315

PATENT TRADEMARK OFFICE

- 3 -

HERO-1-1097Petition.doc

BLACK LOWE & GRAHAM^{PLLC}


816 Second Avenue
Seattle, Washington 98104
206.381.3300 • F: 206.381.3301